

P.E.R.C. NO. 92-107

STATE OF NEW JERSEY
BEFORE THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

RUTGERS, THE STATE UNIVERSITY,

Respondent,

-and-

Docket No. SN-92-12

RUTGERS COUNCIL OF AAUP
CHAPTERS,

Petitioner.

SYNOPSIS

The Public Employment Relations Commission dismisses a scope of negotiations petition filed by the Rutgers Council of AAUP Chapters. AAUP seeks a declaration that the procedures for depriving professors of a research budget line and any workload increases resulting from the loss of such a budget line are mandatorily negotiable. At this time there is no successor contract proposal or demand to arbitrate a grievance. Nor do any special circumstances warrant the exercise of the Commission's scope of negotiations jurisdiction. Absent a grievance or a demand, the issues are not sufficiently clear or precise enough to permit a ruling.

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Appearances:

For the Respondent, John B. Wolf, Employment and Labor
Counsel, Rutgers, the State University of New Jersey

For the Petitioner, Reinhardt & Schachter, P.C., attorneys
(Denise Reinhardt, of counsel)

DECISION AND ORDER

On August 12, 1991, the Rutgers Council of AAUP Chapters petitioned for a scope of negotiations determination. AAUP seeks a declaration that the procedures for depriving professors of a research budget line and any workload increases resulting from the loss of such a budget line are mandatorily negotiable.

The parties have filed affidavits, briefs and exhibits. These facts appear.

The AAUP represents faculty members, teaching assistants, and graduate assistants employed by Rutgers. The parties entered into a collective negotiations agreement effective from August 23, 1990 to June 30, 1992. Any grievance filing must show evidence of an "effort to resolve the matter with the appropriate dean." The

grievance procedure ends in binding arbitration of some disputes and advisory arbitration of others.

Professor Ronald Poretz is a member of the Department of Molecular Biology and Biochemistry. In the past, three-tenths (.3) of his budget "line" was budgeted through the Bureau of Biological Research ("BBR") as a portion of a Separately Budgeted Research ("SBR") line. An SBR line is a position provided to the University by the State for faculty members who engage in the specific research activity of an SBR unit. The rest of Poretz's position was funded by an instruction and departmental research line ("IDR"). An IDR Line supports the teaching and research activities of faculty members not assigned to SBR units. The vast majority of faculty members have 100% IDR lines. The AAUP asserts that the allocation of all or part of a research line is viewed as a reward for past research or productivity.

On September 20, 1990, BBR's Director informed Poretz that the BBR had been forced to return a portion of its SBR line weight to the University in order to meet mandatory budget reductions and Poretz's SBR was thus to be returned. The Director noted that the Department assigned SBRs to those faculty members who have externally funded research grants and have active research programs as evidenced by publications in refereed journals and that the Director did not believe the BBR should support faculty in the Department of Molecular Biology and Biochemistry since that department had been created by using funds taken from BBR. While

Poretz lost his SBR line and now has a 100% IDR line, he has not suffered a salary reduction.

On November 15, 1990, AAUP's president wrote the provost a letter. The letter asserted that Poretz's terms and conditions of employment had been unilaterally changed and that the AAUP may wish to negotiate. The letter raised several questions about how the decision to take away Poretz's SBR line had been made and the consequences of that decision. The letter concluded by asking for any policies and correspondence concerning SBR allocations and the names of faculty members losing SBR lines plus related evaluations.

On February 21, 1991, the University's Assistant Vice-President for Faculty Affairs responded. She stated that the allocation of SBR lines is a managerial prerogative. She also noted that any change that might occur in Poretz's responsibilities as a result of a change from an SBR line to an IDR line would be a change in assignment, not in workload.

The AAUP asserts that losing an SBR line hurts a professor's credit and future and that we should therefore direct negotiations over the procedures for determining whether to reallocate an SBR line. The AAUP also argues that the loss of his SBR line might increase Poretz's workload by increasing his instructional duties and that we should therefore direct negotiations over faculty workload issues arising from SBR losses.

Rutgers responds that we do not have jurisdiction. It also asserts that the procedures by which faculty lines are assigned and

reassigned are not mandatorily negotiable and that this case predominantly involves its rights to allocate resources and assign faculty members.

AAUP responds that we should exercise jurisdiction over this dispute because it has a legitimate interest in exploring the circumstances before a grievance is filed and because the agreement contemplates negotiations over changes in terms and conditions of employment.

Under all the circumstances, we do not believe that there is a basis for us to exercise our authority. N.J.S.A. 34:13A-5.4(d) empowers us, upon the request of any public employer or exclusive representative, to determine whether a matter in dispute is within the scope of negotiations. N.J.A.C. 19:13-2.2(a)(4) requires that a petition specify that the dispute has arisen:

- i. During the course of collective negotiations, and that one party seeks to negotiate with respect to a matter or matters which the other party contends is not a required subject for collective negotiations; or
- ii. With respect to the negotiability of a matter or matters sought to be processed pursuant to a collectively negotiated grievance procedure; or
- iii. Other than in subparagraphs i and ii above, with an explanation of the circumstances.

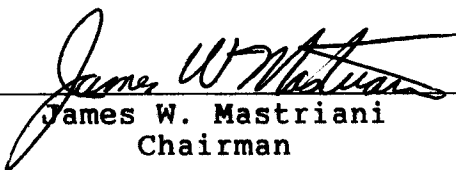
At this time there is no successor contract proposal or demand to arbitrate a grievance. Nor do any special circumstances warrant the exercise of our scope of negotiations jurisdiction. Absent a

grievance or a demand, the issues are not sufficiently clear or precise enough to permit a ruling. We therefore dismiss this petition. See New Jersey Highway Auth., P.E.R.C. No. 92-73, 18 NJPER 67 (¶23029 1991); Livingston Tp. Bd. of Ed., P.E.R.C. No. 86-135, 12 NJPER 451 (¶17170 1986); Bethlehem Tp. Bd. of Ed., P.E.R.C. No. 85-9, 10 NJPER 499 (¶15227 1984).

ORDER

The petition is dismissed.

BY ORDER OF THE COMMISSION


James W. Mastriani
Chairman

Chairman Mastriani, Commissioners Bertolino, Goetting, Grandrimo and Smith voted in favor of this decision. None opposed. Commissioners Regan and Wenzler were not present.

DATED: April 28, 1992
Trenton, New Jersey
ISSUED: April 29, 1992